

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD BOONE II,

Plaintiff,

Case No. 06-14415

vs.

JUDGE DENISE PAGE HOOD
MAGISTRATE JUDGE STEVEN D. PEPE

TERRI FIGHTER, ET AL

Defendants.

/

**ORDER DENYING PLAINTIFF'S MOTION TO APPOINT COUNSEL (#3) AND GRANTING IN PART
PLAINTIFF'S MOTION FOR SERVICE (DKT. #4)**

Plaintiff, an inmate in the custody of the Michigan Department of Corrections ("MDOC"), filed this action under 42 U.S.C. §1983, alleging that defendants violated his constitutional rights. All pretrial matters have been referred to the undersigned.

Motion to Appoint Counsel

Plaintiff's application for appointment of counsel is DENIED without prejudice at this time. Under 28 U.S.C. §1915(e)(1), a federal court may request counsel to represent an indigent plaintiff. 28 U.S.C. §1915(e)(1); *Reneer v. Sewell*, 975 F.2d 258, 261 (6th Cir. 1992). Yet, appointment of counsel for an indigent party is a privilege justified only under exceptional circumstances. *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). To determine whether exceptional circumstances necessitating the appointment of counsel are present, courts consider the type of case involved, the ability of the plaintiff to represent himself, the complexity of the factual and legal issues, and whether the plaintiff's claims are frivolous or have an extremely small likelihood of success. *Id.*; *Reneer*, 975 F.2d at 261; *Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1985).

Plaintiff has demonstrated in his complaint and the exhibits attached thereto that he understands the legal issues and can present these issues to a Court in a satisfactory manner. It must be noted that there is a grave scarcity of attorneys available to represent indigent persons in this Court. This Court has no funds to secure attorneys for indigent parties in civil cases, and has great difficulty finding attorneys willing to volunteer time to serve in *pro bono* cases without payment. Plaintiff may renew the motion if his request for counsel after the court rules on the pending dispositive motion.

Motion for Order Directing Service

On November 8, 2006, this Court entered an order granting Plaintiff's petition to proceed *in forma pauperis* (Dkt. #5). Plaintiff's current motion seeks an order directing the United States Marshal to effectuate service on the named defendants in this matter. This relief is GRANTED.

Therefore, the clerk shall issue summons for the individual defendants and the United States Marshal shall serve the appropriate papers on each individual defendant without prepayment of the costs for such service. The Marshal may collect the usual and customary costs from Plaintiff after effectuating service.

The Court orders Plaintiff to serve a copy of all future documents on the defendants or defense counsel if legal counsel represents the defendant. Plaintiff shall attach to all original documents filed with the Clerk of the Court a certificate stating the date that Plaintiff mailed a copy of the original document to defendants or defense counsel. The Court shall disregard any paper received by a District Judge or Magistrate Judge that has not been filed with the clerk or fails to include a certificate of service.

In this same motion Plaintiff also sought an injunction against further retaliation. Because Plaintiff has not alleged sufficient facts to support such relief in this motion, this relief is DENIED.

So ORDERED.

Dated: January 12, 2007
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that on January 12, 2007, I electronically filed the foregoing order with the Clerk of the Court using the ECF system which will send notification of such filing to the following:not applicable, and I hereby certify that I have mailed by United States Postal Service a the paper to the following non-ECF participants: Richard Boone, II, #409976, Boyer Road Correctional Facility, 10274 Boyer Rd., Carson City, MI 48811

I hereby further certify that I have made arrangements for service of the plaintiff's complaint upon the defendant(s).

s/ James P. Peltier
Courtroom Deputy Clerk
U.S. District Court
600 Church St.
Flint, MI 48502
810-341-7850
pete_peltier@mied.uscourts.gov